



The Honorable Bob Goodlatte
Chairman, House of Representatives Judiciary Committee
United States House of Representatives
2138 Rayburn House Office Building
Washington, D.C. 20515

September 9, 2016

Dear Chairman Goodlatte,

On July 19th, representatives from the Internet Archive flew from San Francisco, C.A. to Washington, D.C. to deliver a simple message to the Copyright Office: Now is not the time for Section 108 reform. We write you now to reiterate and further explain that message.

The Internet Archive is a non-profit digital library, based in San Francisco, California with employees in 20 states around the country. Our mission is to help provide access to all human knowledge. We rely on the many exceptions and limitations built into the Copyright Act in order to achieve this ambitious goal. To date, we have been able to archive billions of web pages, as well as numerous other materials from books and films to music and software. The Internet Archive and our library, archive, and museum partners share the concerns of many in the library community--including those publically expressed by the Library Copyright Alliance and the Society of American Archivists--that renegotiating Section 108 is not only unnecessary but potentially harmful to our efforts to increase public access to information.

We understand that the Judiciary Committee is interested in finding areas of consensus for revision of the Copyright Act. Whatever consensus may have existed in 2008 at the time of the Section 108 Study Group Report, upon which the Copyright Office's reform proposals are based, has long since expired. In the past eight years, the legal landscape for libraries has changed dramatically and for the better. Fair use best practices guides have given libraries confidence to move forward on innovative projects, and courts have supported library interpretations of copyright law, including on Sections 107, 108 and 121. Technology has also advanced, and libraries are now better able to efficiently collect born-digital materials such as websites and digitize their analog collections. The Internet Archive works with hundreds of library partners to do both of those things under current law.

The Copyright Office apparently would prefer to do an end run around the difficult work of developing true consensus on reforming and modernizing the Copyright Act. Instead of holding public meetings or inviting public comments, the Copyright Office instead chose to complete the final phase of its Section 108 review behind closed doors. Had public commentary been sought, it would almost certainly provide a record of many hotly contentious and disputed issues. Unfortunately, since no such public record will be created by the Copyright Office's secret meetings, it will be incumbent upon you and the other members of the Judiciary Committee to inject the necessary transparency into the copyright reform effort. We stand ready to help in that process in any way we can.

Sincerely,

Brewster Kahle, Founder and Digital Librarian
The Internet Archive

Lila Bailey, Counsel
Internet Archive

Tanya Zanish-Belcher, Director, Special Collections & Archives
Wake Forest University

Michael A. Keller, University Librarian, Publisher,
Stanford University Press, Stanford University

Sandra Hirsh, Professor and Director
School of Information, San Jose State University

L. Bryan Cooper, Associate Dean, Libraries
Florida International University

Susan Roeper, Librarian
Sterling and Francine Clark Art Institute

On Behalf of the New York Art Resources Consortium:

Stephen Bury, Chief Librarian
Frick Art Reference Library

Milan Hughston, Chief of Library and Museum Archives
The Museum of Modern Art

Deirdre Lawrence, Principal Librarian
Brooklyn Museum

Signing on Their Own Behalf:

Sandra Gioia Treadway
Librarian of Virginia and State Archivist of Virginia

Bryn Geffert, Librarian of the College
Amherst College